

## National Heavy Vehicle Regulator responses

### RESPONSE TO QUESTION ON NOTICE

Response to QON contained on page 62 of transcript on the number of prosecutions that occur per year relating to chain of responsibility, the number of which are successful and the number over the past five years:

1. Between 2019 – October 2023, the NHVR received sixty-three briefs of evidence for consideration of chain of responsibility prosecutions by the State police and the NHVR. For this purpose, 'chain of responsibility prosecutions' refers only to prosecutions for sections 26F, 26G, 26H and 26D of the Heavy Vehicle National Law.
2. Of the sixty-three briefs of evidence referred, ten were not proceeded with on the basis of no reasonable prospects of a conviction.
3. Of those fifty-three matters, to date, charges have been filed in court against forty-eight entities (including companies and individuals) and 5 matters are still currently being adjudicated.
4. In total, for the forty-eight chain of responsibility matters in which prosecution has commenced, 144 primary duty charges have been filed.
5. As at the present date, twenty chain of responsibility prosecutions are still before the court.
6. As at the present date, twenty-eight chain of responsibility prosecutions have finalised after proceedings commenced in court.
7. Of those 28, 3 matters were withdrawn after proceedings commenced.
8. The remaining twenty-five chain of responsibility matters resulted in successful prosecution outcomes (including 4 by way of an enforceable undertaking).
9. Summary by financial year:
  - To date in the 2023-2024 financial year, 9 briefs of evidence were received, prosecution has commenced in relation to 4 entities with a total of 8 charges being laid. An additional five chain of responsibility matters are pending adjudication.
  - In the 2022-2023 financial year, 11 briefs of evidence were received, prosecution commenced in relation 10 entities with a total of 46 charges being laid but charges were subsequently withdrawn against 1 entity. There was one matter that was not proceeded with due to no reasonable prospects of a conviction.
  - In the 2021-2022 financial year, 24 briefs of evidence were received, prosecution commenced in relation to 18 entities with a total of 52 charges being laid but charges were subsequently withdrawn against 1 entity. There were six matters that were not proceeded with due to no reasonable prospects of a conviction.
  - In the 2020-2021 financial year, 17 briefs of evidence were received, prosecution commenced in relation to 15 entities with a total of 37 charges being laid but charges were subsequently withdrawn against 1 entity. There were two matters that were not proceeded with due to no reasonable prospects of a conviction.
  - In the 2019-2020 financial year, 2 briefs of evidence were received, prosecution commenced in relation to 1 entity with a total of 1 charge being laid. There was one matter that was not proceeded with due to no reasonable prospects of a conviction.

## **RESPONSE TO SUPPLEMENTARY QUESTION:**

### **The question asked was:**

I note that the NHVR delivers the Heavy Vehicle Inspection Scheme. Are drivers able to use heavy vehicle inspection sites as rest areas when these sites are not operating? If no, why?

### **NHVR Response**

The NHVR delivers the Heavy Vehicle Inspection Program (HVIS) under a MOU with Transport for NSW. HVIS inspections are registration roadworthiness inspections for specific heavy vehicles. Across NSW over 100,000 registration inspection are undertaken annually, at a combination of leased and fleet sites.

HVIS sites vary in size and capacity for heavy vehicles, in the greater Sydney metropolitan area sites operate daily, and inspection sites in regional areas are generally leased from local providers for a defined number of days each year.

When applicable sites are not undertaking HVIS inspections, the sites supplement the NHVR capacity to undertake heavy vehicle inspections under the Heavy Vehicle National Law.

The HVIS sites currently do not have public facilities available to support a heavy vehicle rest location, have limited space (site specific), local council operating conditions and support the NHVR on-road compliance programs. The sites are usually enclosed mechanical work sites and feature elements such as open pits and specialised testing equipment. In some areas the hours of use are also limited to daylight hours due to the noise impact on surrounding residential areas.

Apart from the use of these sites falling outside of the NHVR's lease agreements, to allow industry access to secure sites as rest areas, without site inductions, supervision and appropriate safety equipment would have significant, probably irresolvable, health and safety implications and it is considered inappropriate for this reason.

### **It may be that the enquiry was meant to be directed at the use of the Heavy Vehicle Safety Stations.**

#### **NHVR response**

- Heavy Vehicle Safety Stations (HVSS) are part of the National Heavy Vehicle Regulator's (NHVR) heavy vehicle compliance program, which include mobile enforcement and the Safe-T-Cam network across New South Wales. The NHVR uses HVSS to intercept and inspect heavy vehicles which may be operating illegally or in an unsafe manner on NSW roads, and which therefore pose significant risk to road users, the road infrastructure and the environment.

There are several HVSS located strategically on major freight routes state-wide. Facilities vary from large HVSS such as Marulan and Mt White, which are open almost all the time, and smaller stations which are open for shorter periods, based on risk and operational plans.

HVSS sites vary in size and capacity for heavy vehicle inspections, have limited parking and do not have public facilities available to support a heavy vehicle rest location. As safety and compliance inspections are undertaken at various times across a 24hour span, the sites are required to be

available for operational activities. Several HVSS sites are located near a heavy vehicle rest area, when a driver is detected by officers requiring a rest, (to comply with their legislated work and rest times) officers generally direct the driver to these rest area's.

These sites are operated under license as they are part of the road reserve and any use outside of the terms of the licence agreement sits outside of the NHVR's delegation.

For these reasons the NHVR does not support these sites being used as rest areas.

This response in no way should be read as a lack of support for addressing heavy vehicle driver fatigue.

To the contrary, in 2020 the NHVR launched a new online tool that maps service centres, truck stops and roadhouses that remain open for heavy vehicle drivers. The tool provides information about services and trading hours for service centres right across the country. The mapping tool allows drivers to jump online and see quickly which facilities are still operational and providing these important services, allowing them to plan routes and breaks.

The NHVR has recently released a "We ALL Need Space" campaign about reminding light vehicle drivers to give trucks space on Australian roads. This also includes a segment on caravan drivers and light vehicle drivers and their responsibility to plan their trip and details regarding the use of heavy vehicle rest area's. Further information can be found at [We All Need Space | NHVR](#)

The NHVR is also aware Transport for NSW are working with the heavy vehicle sector to identify new rest areas and strongly support this initiative."